

SEP 03 2013

*[Signature]*  
CLERK

## SOUTHERN DIVISION

)
)
)
)
)
)
)
)
)
)

ORDER DENYING LEAVE TO  
PROCEED IN FORMA PAUPERIS ON  
APPEAL

Under the Prison Litigation Reform Act (PLRA), a prisoner who “files an appeal in forma pauperis . . . [is] required to pay the full amount of a filing fee.” 28 U.S.C. § 1915(b)(1). This obligation arises “ ‘the moment the prisoner . . . files an appeal.’ ” *Henderson v. Norris*, 129 F.3d 481, 483 (8th Cir. 1997) (quoting *In re Tyler*, 110 F.3d 528, 529–30 (8th Cir. 1997)). Therefore, “ ‘[w]hen an inmate seeks pauper status, the only issue is whether the inmate pays the entire fee at the initiation of the proceedings or over a period of time under an installment plan.’ ” *Id.* (quoting *McGore v. Wrigglesworth*, 114 F.3d 601, 604 (6th Cir. 1997)).

“[P]risoners who appeal judgments in civil cases must sooner or later pay the appellate filing fees in full.” *Id.* (citing *Newlin v. Helman*, 123 F.3d 429, 432 (7th Cir. 1997)).

However, the PLRA prohibits a prisoner from requesting in forma pauperis status in an action or appeal

if the prisoner has, *on 3 or more prior occasions*, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, *unless the prisoner is under imminent danger of serious physical injury*.

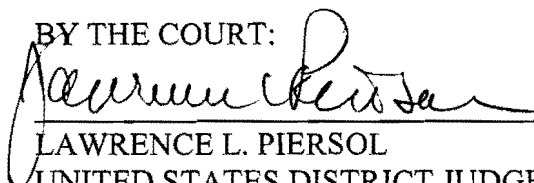
28 U.S.C. § 1915(g) (emphasis added). Creek has, on three or more prior occasions, brought an action in federal court that was dismissed pursuant to the screening procedures of § 1915.<sup>1</sup>

Moreover, Creek has not established that he is under imminent danger of serious physical injury. Accordingly, the court denies Creek leave to proceed in forma pauperis on appeal. Creek must pay the requisite \$455 filing fee. Therefore, it is

ORDERED that Creek may not proceed in forma pauperis on appeal. Creek must pay the \$455 appellate filing fee to proceed with his appeal.

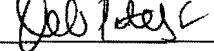
Dated this 3<sup>rd</sup> day of September, 2013.

BY THE COURT:

  
LAWRENCE L. PIERSOL  
UNITED STATES DISTRICT JUDGE

ATTEST:

JOSEPH HAAS, CLERK

BY:   
DEPUTY

---

<sup>1</sup> Those actions are specifically set forth in the Order dated March 4, 2011. Docket 11.